

MONTANA LEGISLATIVE HISTORY

Chapter 488 19 95

Bill H _____ S 153

Original bill & history ✓ c

H. Committee on Natural Resources

S. Committee on Natural Resources

Hearing Date(s) 3/3 ✓ c

Hearing Date(s) 1/23 ✓ c

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Date Out 3/10 ✓ c

1/27 ✓

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997 1995

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3/18 SIGNED BY SPEAKER
 3/20 TRANSMITTED TO GOVERNOR
 3/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 234
 EFFECTIVE DATE: 10/01/95

SB 152 INTRODUCED BY KEATING

REPEAL RESOURCE INDEMNITY TRUST TAX WHEN RESOURCE
 INDEMNITY TRUST FUND REACHES \$100 MILLION

1/16	FISCAL NOTE REQUESTED		
1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO TAXATION		
1/20	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/25	HEARING		
1/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/31	2ND READING PASSED	28	21
2/01	3RD READING PASSED	26	24
	TRANSMITTED TO HOUSE		
2/02	FIRST READING		
2/02	REFERRED TO TAXATION		
3/01	HEARING		
3/06	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

SB 153 INTRODUCED BY BROOKE

CONFORM CERTAIN DEFINITIONS TO THE FEDERAL SAFE DRINKING
 WATER ACT

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 SCIENCES

1/16	FISCAL NOTE REQUESTED		
1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO NATURAL RESOURCES		
1/23	HEARING		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE PRINTED		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	33	16
2/04	3RD READING PASSED	33	13
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO NATURAL RESOURCES		
3/03	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/29	2ND READING CONCURRED	89	10
3/30	3RD READING CONCURRED	88	9
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS CONCURRED	50	0
4/06	3RD READING AMENDMENTS CONCURRED	50	0
4/08	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 488		
	EFFECTIVE DATE: 10/01/95		

1
2 INTRODUCED BY Senate SENATE BILL NO. 153

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE
6 DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO
7 ESTABLISH REQUIREMENTS BY RULE FOR CROSS-CONNECTIONS; SPECIFYING THE WATER SUPPLY,
8 SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND APPROVAL OF PLANS AND
9 SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; MODIFYING THE
10 LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT NONCOMMUNITY WATER SYSTEMS;
11 ESTABLISHING A WELLHEAD PROTECTION PROGRAM; AUTHORIZING THE BOARD OF HEALTH AND
12 ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD PROTECTION
13 REQUIREMENTS; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND
14 75-6-112, MCA."

15
16 STATEMENT OF INTENT

17 A statement of intent is provided for this bill because 75-6-103 directs the board of health and
18 environmental sciences to develop rules regarding cross-connections and wellhead protection.

19 In regard to cross-connections, the legislature anticipates that minimum standards and requirements
20 will be developed to ensure that a public water supply does not become contaminated when the system
21 is connected to another nonpublic water supply or to a possible source of contamination. The standards
22 and requirements must be consistent with other rules adopted under Title 75, chapter 6, and may require
23 installation of specific types of cross-connection control devices in accordance with industry standards.
24 Deadlines for compliance with these standards and requirements may be staggered in a manner that is
25 consistent with federal safe drinking water guidelines, with larger systems having earlier deadlines than
26 smaller systems. The rules may include model standards and requirements for recommended
27 implementation by public water supply system suppliers.

28 In regard to wellhead protection, the legislature anticipates that the rules will provide detailed
29 guidance to the department of health and environmental sciences and to local governing bodies regarding
30 the development and certification of wellhead protection areas and the adoption of wellhead protection area

ordinances. The rules should describe both the processes and substantive requirements for certification of wellhead protection areas and for review of proposed ordinances and verification of their compliance with Title 75, chapter 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-101, MCA, is amended to read:

"37-42-101. Purpose. It is ~~hereby found and~~ declared that the health and welfare of Montana citizens are jeopardized by persons not properly qualified to operate the water supply systems and that Montana's state waters are endangered by persons not properly qualified to operate the wastewater treatment plants. It is declared that the public policy of this state ~~is to control~~ protect the public health and safety by certifying ~~those~~ persons working in these occupations ~~in order to protect the public health and safety.~~"

Section 2. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.

(2) "Community water system" means the term as defined in 75-6-102.

(3) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.

~~(3)~~(4) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

~~(4) "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.~~

(5) "Nontransient noncommunity water system" means a public water supply system that is not a community water system and that regularly serves at least 25 of the same persons for at least 6 months

a year.

~~(5)~~(6) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

(7) "State waters" means the term as defined in 75-6-102.

~~(6)~~(8) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial wastes, or other wastes and which;

(b) discharges an effluent directly into this state's state waters; and which serves 10 or more families or serves an industry employing 10 or more persons

(c) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(7)~~(9) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply source to the premises of the consumer and which serves 10 or more families or supplies an industry employing 10 or more persons that is part of a community water system or a nontransient noncommunity water system.

~~(8)~~(10) "Water supply system" means the system of pipes, structures, and facilities through which the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and which that serves 10 or more families or serves an industry employing 10 or more persons is part of a community water system or a nontransient noncommunity water system.

~~(9)~~(11) "Water treatment plant" means that portion of the water supply system which that alters either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable for human use."

Section 3. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Certified wellhead protection area" means an area certified by the department that protects the surface and subsurface area surrounding a source of ground water for a public water supply system through which contaminants may move toward and reach the source of supply.

1 (3) "Community water system" means ~~any~~ a public water supply system that serves at least 10
2 15 service connections used by year-round residents or that regularly serves at least 25 year-round
3 residents.

4 ~~(3)~~(4) "Contamination" means impairment of the quality of state waters by sewage, industrial
5 wastes, or other wastes creating a hazard to human health.

6 (5) "Cross-connection" means a connection between a public water supply system and another
7 water supply system, either public or private, or a wastewater or sewer line or other potential source of
8 contamination so that a flow of water into or contamination of the public water supply system from the
9 other source of water or contamination is possible.

10 ~~(4)~~(6) "Department" means the department of health and environmental sciences provided for in
11 Title 2, chapter 15, part 21.

12 ~~(5)~~(7) "Drainage" means rainfall, surface, and subsoil water.

13 ~~(6)~~(8) "Industrial waste" means any waste substance from the processes of business or industry
14 or from the development of ~~any~~ a natural resource, together with any sewage that may be present.

15 (9) "Industrial waste discharge system" means a system that discharges industrial waste into state
16 waters.

17 ~~(7)~~(10) "Maximum contaminant level" means the maximum permissible level of a contaminant in
18 water ~~which~~ that is delivered to ~~any~~ a user of a public water supply system.

19 (11) "Montana wellhead protection program" means a program administered by the department to
20 certify wellhead protection areas and review wellhead protection ordinances.

21 ~~(8)~~(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark,
22 lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or
23 discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state
24 waters.

25 ~~(9)~~(13) "Person" means ~~any~~ an individual, corporation, association, partnership, municipality, other
26 political subdivision of the state, or federal agency.

27 ~~(10)~~(14) "Pollution" means contamination or other alteration of the physical, chemical, or biological
28 properties of ~~any~~ state waters ~~which~~ that exceeds that which is permitted by Montana water quality
29 standards, including but not limited to standards relating to change in temperature, taste, color, turbidity,
30 or odor or the discharge or introduction of ~~any~~ a liquid, gaseous, solid, radioactive, or other substance into

any state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife. A discharge ~~which~~ that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that ~~is designed to serve or serves~~ 10 15 or more families or 25 or more persons daily for a period of at least 60 days ~~out of the~~ in a calendar year.

~~(12)~~(16) "Public water supply system" means a system for the provision of water for human consumption from ~~any a~~ a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly serves 10 or more families or at least 25 or more persons daily or has at least 10 service connections for a period of at least 60 days out of the in a calendar year.

~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at Title 40, CFR, ~~Parts~~ parts 141 and 142.

~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

~~(15)~~(19) "State waters" means ~~any a~~ a body of water, irrigation system, or drainage system, either surface or underground.

~~(16)~~(20) "Transient noncommunity water system" means ~~any a~~ a public water supply system that is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons on a transient basis for at least 6 months a year."

Section 4. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of the board. (1) The board has general supervision over all state waters ~~which~~ that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used for a public water supply system;

(b) fees, as described in 75-6-108, for services rendered by the department;

(c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply system systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the issuance of licenses by the department to laboratories that conduct analysis of public water supply systems;

(f) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(g) the review of financial viability of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(h) the collection and analysis of samples of water used for drinking or domestic purposes;

(i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(j) administrative enforcement procedures and administrative penalties authorized under this part and

(k) standards and requirements to prevent water supply contamination from a cross-connection including:

(i) establishment of timeframes for implementation of the standards and requirements based on the size of the public water supply system; and

(ii) provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems;

(l) requirements for certification of wellhead protection areas and review of wellhead protection area ordinances pursuant to [section 6]; and

~~(k)~~(m) any other requirement necessary for the protection of public health as described in this part;

(3) The board may issue orders necessary to fully implement the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state

waters used by a person for domestic use or as a source for a public water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or other waste into ~~any~~ state waters or on the banks of ~~any~~ state waters or into ~~any~~ an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate ~~any~~ a railroad, logging road, logging camp, or electric or manufacturing plant of any kind on ~~any~~ a watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) commence construction, alteration, ~~or~~ extension or operation of ~~any~~ a system of water supply, or water distribution, that is designed to be a public water supply system or a system of sewer, drainage, wastewater waste, or sewage disposal that is designed to be a public sewage system or industrial waste discharge system before ~~he~~ the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications;

(5) operate or maintain ~~any~~ a public water supply system ~~which~~ that exceeds a maximum contaminant level established by the board unless ~~he~~ the person has been granted or has an application pending for a variance or exemption pursuant to this part;

(6) violate any provision of this part or a rule adopted under this part; or

(7) violate any condition or requirement of an approval issued pursuant to this part."

NEW SECTION. **Section 6. Montana wellhead protection program.** (1) The department shall implement a Montana wellhead protection program that is approved by the United States environmental protection agency and that meets requirements of the federal Safe Drinking Water Act, including 42 U.S.C. 300h-7.

(2) The department may certify a wellhead protection area upon:

(a) receipt of a petition by a supplier for a public water supply system or by request of the governing body of the county in which the system is located; and

(b) making a determination that the wellhead protection area meets requirements for certification

1 established by the Montana wellhead protection program.

2 (3) (a) The governing body of the county in which a wellhead protection area or areas exist may
3 adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used
4 within the wellhead protection area or areas.

5 (b) Prior to adopting a wellhead protection area ordinance, the governing body shall submit the
6 ordinance to the department for review and verification that the ordinance is consistent with the
7 requirements of this chapter.

8 (c) A wellhead protection area ordinance must be adopted using the procedures described in
9 7-5-103 through 7-5-107.

10 (4) (a) An ordinance adopted under subsection (3) is limited in applicability to the certified wellhead
11 protection area or areas within the county.

12 (b) For a wellhead protection area that is located in two or more counties, the proposed wellhead
13 protection area ordinance must be adopted by each county in order for the ordinance to be effective.

14 (5) A wellhead protection area ordinance adopted under this section may not conflict with any
15 other state or local law or regulation, including but not limited to zoning, fire codes, hazardous waste
16 regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8.

17 (6) The department shall maintain and, upon request, distribute a register of wellhead protection
18 area ordinances adopted by local governing bodies.

19
20 **NEW SECTION. Section 7. Codification instruction.** [Section 6] is intended to be codified as an
21 integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to
22 [section 6].

23 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0153, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act conforming certain definitions to the federal Safe Drinking Water Act by authorizing the Department of Health and Environmental Sciences (DHES) to establish requirements by rule for cross-connecting, and specifying the water supply, sewage and waste systems that require review and approval of plans and specifications by the DHES.

ASSUMPTIONS:

1. The Executive Budget present law base budget is the starting point for calculation of any impacts due to this proposed legislation.
2. The department estimates approximately 20 very small water systems that are currently classified as public water systems would no longer be regulated under the Public Water Supply Law. A \$100 service connection fee would no longer be paid by these systems, resulting in a loss of \$2,000 in Public Water Supply revenue to the department.
3. The operators of these 20 very small water systems would no longer have to be certified under the Water and Wastewater Operator Certification law. An annual fee of \$30 would no longer be paid by these operators, resulting in a loss of \$600 in waste water operator revenue to the department.
4. The department estimates that operators of approximately 200 non-transient noncommunity public water systems would be required to become certified. They would be required to pay the annual \$30 certification fee, along with an additional \$5 examination fee during FY96, when they became certified. Total revenue to the Waste Water operator Certification Program would be \$7,000 in FY96 and \$6,000 in FY97.
5. The increased workload due to certification of the 200 non-transient noncommunity public water systems operators would not offset the decrease in workload due to a reduction of the 20 very small public water supply systems which would no longer require operator certification. The department would use the additional revenue generated from the certification to contract for temporary clerical services to help with the increased workload.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses	4,400	3,400
<u>Funding:</u>		
State Special Revenue (02)	4,400	3,400

(Continued)

Dave Lewis 1.22.95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Vivian Brooke
VIVIAN BROOKE, PRIMARY SPONSOR DATE

Fiscal Note for SB0153, as introduced

SB 153

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Approximately 200 schools and businesses that have their own public water supply systems would be impacted. An annual operator certification fee of \$30 would be required, and a \$5 examination fee would be required in FY96. Operators of school water systems serving over 100 students would be required to attend four hours of continuing education training each year.

Incorporated towns, cities and water districts would have to implement cross-connection control programs. Implementation would be staggered to allow smaller systems time to prepare for adoption of minimum standards. Implementation likely will be requiring a customer that poses a risk of cross-contamination to purchase and install a cross-connection control device. Inspection and certification of the devices, if necessary, could be done by the local government at their option or required to be done by a plumber or other independent party hired by the customer, as the local government requires.

SENATE NATURAL RESOURCES

Page 3

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

HJ0025	QUILICI, JOE		SUPPORT TECHNOLOGY FOR MINE WASTE IN BUTTE			
	2/21	3/10		CONCUR	VOTE:	3/13
HJ0026	CURTISS, AUBYN		RESOLUTION OPPOSING CLOSURE OF MISSOULA REGIONAL FOREST SERVICE OFFICE			
	2/27	3/10		CONCUR	VOTE:	3/21
SB0046	SWYSGOOD, CHUCK		GROUND WATER ASSESSMENT AND MONITORING PROGRAM FUNDING			
	1/04	1/09		PASS AS AMENDED	VOTE:	1/17
SB0048	KEATING, TOM		AN ACT AMENDING CERTAIN PROVISIONS OF THE MONTANA CLEAN AIR ACT			
	1/03	1/09		PASS AS AMENDED	VOTE:	1/24
SB0071	STANG, BARRY		REVISING THE PETROLEUM TANK RELEASE CLEAN UP LAWS			
	1/09	1/13		DO PASS	VOTE:	1/17
SB0078	GROSFIELD, LORENTS		WATER QUALITY PERMIT ENFORCEMENT, FEE, AND BONDING REVISIONS			
	1/09	1/16		PASS AS AMENDED	VOTE:	2/02
SB0128	JERGESON, GREG		SURCHARGE ON CERTAIN RESIDENTIAL IMPROVED LAND TO DEFRAY FIRE SUPPRESSION \$\$			
	1/13	1/18		PASS AS AMENDED	VOTE:	2/02
SB0137	BROOKE, VIVIAN		REVISING THE COMPREHENSIVE ENVIRONMENTAL CLEANUP AND RESPONSIBILITY ACT			
	1/14	2/10		TABLED ON 02/10	VOTE:	
SB0145	KEATING, TOM		RETURN PUBLIC DOMAIN TO STATE -- MT LAND REFORMATION ACT			
	1/16	2/06		DO PASS	VOTE:	2/11
SB0147	HERTEL, JOHN		STATE WATER PROJECT LAW REVISIONS			
	1/16	1/25		PASS AS AMENDED	VOTE:	2/10
SB0153	BROOKE, VIVIAN		CONFORM TO SAFE DRINKING WATER ACT; CREATE WELLHEAD PROTECTION PROGRAM			
	1/16	1/23		PASS AS AMENDED	VOTE:	2/02
SB0186	BECK, TOM		DSL ABANDONED MINE RECLAMATION AUTHORITY			
	1/18	1/25		DO PASS	VOTE:	2/02

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 23,
1995, at 1:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 153
Executive Action: HB 75

{Tape: 1; Side: A}

HEARING ON SB 153

Opening Statement by Sponsor:

SENATOR VIVIAN BROOKE, Senate District 33, Missoula, said SB 153 is an Act conforming certain definitions to the federal Safe Drinking Water Act. Individuals that operate nontransient, noncommunity public water supplies must be certified. SB 153 authorizes the Department of Health and Environmental Sciences to establish rules for cross-connections of public water systems. The bill authorizes the DHES to establish wellhead protection

rules. SEN. BROOKE reviewed a list of communities that have begun wellhead protection programs and communities that are interested in wellhead protection, and a list of the advisory committee members. EXHIBIT 1.

Proponents' Testimony:

Jim Melstad, Supervisor of the Drinking Water and Subdivision Section of the Department of Health and Human Sciences, said they opposed SB 153 as written, and presented the committee members proposed amendments to the Waste Water Operator Certification law and the Public Water Supply Law as contained in EXHIBIT 2.

Mr. Melstad said many water systems are not operated by certified operators and they do not understand the requirements. The DHES requires that schools should have certified operators for their drinking water systems.

SEN. ETHEL HARDING, Senate District 37, said she could not support SB 153 because of the rules, and reviewed some amendments that would change those rules as contained in EXHIBIT 3.

Gerald Smith, Galata, said he served on the advisory committee for the Wellhead Protection Program, which is a voluntary program. EXHIBIT 4.

SEN. THOMAS KEATING said those people testifying in favor of the bill want to change the bill, and wondered whether or not they were proponents.

CHAIRMAN LORENTS GROSFIELD asked if there were any proponents to testify without amendments to SB 153.

Arvid Miller, Mountain Water Company, said that they were a privately owned water company that serves about 50,000 people in Missoula, and approximately 450 in Superior. He said their involvement initially started in the area of backflow and cross-connection. The problem is, that when devices are installed that will preclude contamination from an outside system, it is imperative that those devices are checked on an annual basis. As an example, there was a main that was repaired in the south hills in Missoula which resulted in negative pressure on the water main. After a main is repaired, it is flushed out to make sure there is no debris left in the system. During the flushing, the water began to turn green, and they traced it back to an abandoned driveway that had antifreeze in pipes beneath the driveway to heat it.

{Tape: 1; Side: B}

Mr. Miller said another example, was a restaurant that was complaining about their water tasting like metal. In checking their water system they discovered a cross-connection without an

appropriate backflow device and some chemicals used by a dentist caused a backflow into the restaurant's water. He said if a hospital was using contagious materials, they could be backflowed into the water system. Without the annual monitoring of backflow devices, those problems could occur. The hospital backflow in Missoula had not been checked for 12 years, and the only way to enforce rules is either from a state or local authority. In 1990 the City County Health Department put together an ordinance adopted by the city of Missoula that would give local control over aquifer protection. There are small communities that don't have the ability to pass an ordinance to protect their groundwater source, and SB 153 would enable them to do so. The bill keeps the Wellhead Protection Program voluntary.

Daniel Keil, board member of the Tiber Water District and the Montana Rural Water Systems, said they have 300 members and they are headquartered in Great Falls. They have a fulltime staff that travels around the state to work on those systems. **Mr. Keil** said they approve the amendments that were presented to the committee members.

John Fitzpatrick, Director Community Affairs, Pegasus Gold Corporation, said SB 153 was not a bill that was of major concern to their company. Last session SB 401 sponsored by the DHES was the non-degradation bill. That bill had some broad grants of authority for rules. Subsequently, the rule-making process was very controversial. A lot of people were very unhappy the way the rules were crafted. **Mr. Jensen's** newsletter described the rule-making process as a great victory for environmentalists. Page 6, Lines 17-24 of SB 153 describes another set of rules by the DHES. **Mr. Fitzpatrick** said he didn't think that the Public Drinking Water Supply Act applied to mines. There was a reclamation project at the Zortman mine, and the Department of State Lands and the BLM were contacted for approval of a reclamation project. The Water Quality Staff person from DSL who was assigned to do the work was present at that meeting. **Mr. Fitzpatrick** said they went through the permit process and attained a permit to go ahead with the facility, then the DHES came out and said they knew nothing about the project. They demanded a second right to review the project by referring to Line 13 of the Statute. He said they have a proposal before the DHES to build a water treatment plan at the mine. The DHES received their plans and specifications, and nothing happened. Finally, **Mr. Pilcher** got the process moving, but it took several months to get that facility reviewed. He said the problem with the DHES is that nothing is done in a responsive manner. He suggested to the committee members that a specific time frame should be included in the bill for those reviews.

Opponents' Testimony:

Lowell Knowlen, private businessman, said he agreed that there should be backflow devices on wellhead systems. However, he was concerned with the definition of non-transient water supply.

Page 5, Lines 8-9 says, "public water supply system, means a provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser or other water supply..." To put all water suppliers under the same restrictions puts a burden on small businesses.

Questions From Committee Members and Responses:

SEN. FOSTER asked **Mr. Melstad** if he would respond to **Mr. Knowlen's** testimony that the bill will involve every business in Montana. **Mr. Melstad** said that was true for systems that meet the minimum definition of the public water system which is 10 or more connections or 25 or more people for at least 60 days per year. The EPA definition includes businesses as well as schools. The existing legislation requires certification of operators for those industries. **SEN. FOSTER** asked **Mr. Melstad** to give him an example of a business that would fall under the law and one that would not. **Mr. Melstad** replied that some of the businesses they monitor only require certification of the operators. Businesses that would have to be certified would be dentist's offices that have 25 or more employees, lumber mills, an office building, etc.

SEN. CHRISTIAENS asked **Mr. Melstad** what the DHES cross-connection inspection requirements were. He said **Mr. Miller's** testimony indicated that a hospital in Missoula had not been checked for 12 years. **SEN. CHRISTIAENS** asked **Mr. Melstad** if there were laws in place to see that those cross-connections are checked. **Mr. Melstad** replied that currently, there are no requirements for inspections. **SEN. CHRISTIAENS** asked **Mr. Melstad** how many FTE's were required to do the inspections. **Mr. Melstad** said with HB 153 they hoped there would be minimum standards for cross-connection control. They did not intend to expand the program to meet those requirements, but would consider individuals currently on staff that could be trained to do those inspections. **SEN. CHRISTIAENS** said he was concerned about expanding services under current law. **Mr. Melstad** said the amendments that were proposed would make the cross-connection portion of the bill optional, and the operator's certification would be eliminated.

SEN. CHRISMORE asked if a person doing an inspection of a cafe or business that has its own water system, would have to be licensed. **Mr. Melstad** replied only businesses with 25 or more employees, not 25 or more customers.

CHAIR. GROSFIELD said cross-connection does not have a close relationship with wellhead protection. These are the two issues in HB 153. He asked **Mr. Melstad** if the wellhead protection program was another primacy area. **Mr. Melstad** answered they were not trying to keep up with federal law or rule-making. Under EPA regulations they are required to develop disinfection definitions for ground water systems. There is a rule that says, "that in

order to avoid ground water disinfection there would have to be a cross-connection control."

SEN. KEATING asked who would be capable of designing a wellhead protection plan. **John Arrigo, Manager of the Ground Water Program, Department of Health and Environmental Sciences** replied that the EPA designed a manual explaining how to establish a wellhead program. He said the community has to get involved, and the water bearing characteristics of the aquifers, the geology, and the pumping characteristics of the well have to be considered for a wellhead program.

SEN. KEATING asked if the communities had qualified people who could put together a wellhead program.

{Tape: 2; Side: A}

Mr. Arrigo replied that many Montana public water suppliers are very small and they do not have the financial and technical capabilities to go through the calculations. It was a voluntary program and the department did not want to mandate that a community must hire a consultant, which could cost up to \$10,000. Missoula had the resources to work with the university to do computer models. The smaller communities are working with **Mr. Melstad**, and propose to use some of their revenue generated by fees. **SEN. KEATING** asked **Mr. Melstad** what kind of experience was needed to design a cross-connection. **Mr. Melstad** replied that a plumber, janitor, or a custodian could do that with proper training.

SEN. FOSTER asked **Mr. Melstad** if the janitor, plumber, etc would be a certified operator. **Mr. Melstad** said yes, that could be the same person, unless that individual didn't want to become certified. **SEN. FOSTER** asked how difficult it would be for a person to become certified. **Mr. Melstad** replied they would have to take a test for different classifications. Those tests are not that difficult, and approximately 70% pass those tests in the first attempt.

SEN. KEATING asked **Mr. Melstad** who inspects those systems to make sure they comply with the law. **Mr. Melstad** answered that the minimum standards would be adopted by the department and the public water supplier would then become responsible for implementation and compliance with the standards.

SEN. KEATING asked if the sanitarian testing the water found it to be pure, would that be proof that the system works. **Mr. Melstad** said if the local supplier found that a system wasn't in compliance, they could involve the DHES.

SEN. KEATING asked **Arvid M. Miller**, if they could shut-off people's water supply. **Mr. Miller** answered that they could shut off the water supply for non-payment of service, illegal use, etc. There is not a specific rule that allows the company to shut off the water for lack of compliance with cross-connection

rules. **SEN. KEATING** said SB 153 would establish in the law more control over the water supply system. **Mr. Miller** said that Public Service Commission regulations say that they are entitled to discontinue service for non-compliance with backflow and cross-connection rules adopted by the DHES for the protection of the public health. **Mr. Miller** clarified that **Mr. Melstad** was talking about the state's views on cross-connection compliance. He said the Mountain Water Company would propose that they submit a backflow cross-connection program for the department's review. Then it would be their job as a water purveyor to take that cross-connection program and apply it to their system. In other states, the water purveyor inspects the water system for violations. He said they have the only certified inspector in Montana, that was trained in cross-connection certification. He said they would not propose that they be the inspectors, but a number of plumbers he talked with in Missoula could be certified to inspect cross-connections, and form a private business. **SEN. KEATING** asked if the Mountain Water Company was controlled by the Public Service Commission, because the company is a public utility. **Mr. Miller** replied yes. **SEN. KEATING** said a small community may be at risk because they wouldn't have the expertise that Mountain Water Company provides for their customers. **Mr. Miller** said, for example, Stevensville chose not to submit for approval from the Water Quality Division, and they are not required to do so under HB 153. However, if they do, they have the option of choosing their own program.

SEN. KEATING said Pinesdale put together a community water supply system for themselves. However, they are in trouble because they didn't go through the permitting process. **SEN. KEATING** asked if the legislation was in place, would they be a voluntary group that would not have to get a permit through the Water Quality Division. **Steve Pilcher, Water Quality Division, Department of Health and Environmental Sciences** answered that the legislation that he was referring to and the voluntary provision, would not relieve the community of Pinesdale from complying with other provisions of the public water supply law. The voluntary provision relates to cross-connection. If they were concerned about cross-connection, they could utilize the provision that is proposed. This could provide the same type of protection that would be provided by the Mountain Water Company or the city of Missoula.

SEN. CRISMORE asked **Mr. Melstad** if the town of Libby had their own water supply system, and if they volunteered to go into that program, could they certify one of their people to do the inspection. **Mr. Melstad** said that was correct.

CHAIR. GROSFIELD asked **Mr. Melstad** if the amendments submitted by **SEN. HARDING** were supported by the department. **Mr. Melstad** replied that he hadn't had a chance to discuss them with **Mr. Pilcher**, but from the program manager perspective, they do support the amendments. **CHAIR. GROSFIELD** said **Mr. Fitzpatrick** expressed some concern over the lack of time-frames for rule-

making. **Mr. Melstad** said the current regulations require a 60 day turn-around time for compliance. The current rules do not address industrial waste systems.

CHAIR. GROSFIELD asked **Mr. Pilcher** if he would comment on the time-frame issue and other types of drainage they were referring to. **Mr. Pilcher** answered that the requirement for a plant inspection review is tied to facilities that have a potential of impacting water quality. He said acid mine waste that could be discharged from a waste rock pile containing highly acidic mineral water, could impact state waters. The department has not attempted to apply that to an irrigation system or every culvert. He said their intent was to restrict the review to those facilities that have a potential impact on water quality. The purpose of review is to ensure that the facility will perform as expected. He said they want to make sure the facility meets all public health standards and that they are in conformance with the regulations. They have not reviewed industrial waste water treatment facilities because of lack of resources, etc. He said they are attempting to address those in order to be consistent.

CHAIR. GROSFIELD asked **Mr. Pilcher** if he would comment on the amendments to HB 153. **Mr. Pilcher** said if **Mr. Melstad** was comfortable with the amendments, the department would support them.

{Tape: 2; Side: B}

Closing by Sponsor:

SEN. BROOKE suggested that a grey bill be prepared with the amendments to help sort through the intent of the amendments and get a better understanding of the changes. There are some good proposals in the bill that say there should be more local control and more involvement in protecting public health. She said the wellhead protection program proposed in the bill, goes to the heart of having local people involved. **SEN. BROOKE** stated that she had the booklet on waste water operator's certification, and asked the committee to work on the bill and come up with a better solution than in the original bill.

CHAIR. GROSFIELD requested that **Todd Everts, Environmental Quality Council**, put together a grey bill just for the committee members, that would make it easier to deal with the bill in executive session.

EXECUTIVE ACTION ON HB 75

Motion/Vote: **SEN. FOSTER** MOVED HB 75 BE CONCURRED IN. MOTION PASSED UNANIMOUSLY.

{Comments: this session was recorded on two 60 minute tapes.}

Montana Wellhead Protection Program

Water Quality Division

Department of Health and Environmental Sciences

Cogswell Building, Room B-201

Helena, MT 59620

Phone: (406) 444-5492

Fax: (406) 444-1374

January 19, 1995

Advisory Committee Members

Carolyn Colman
Mayor
West Yellowstone

Valerie Counts
Planning Director
Park County
Livingston

Diana Day
Business Woman
Harlowtown

Ethel Harding
State Senator
Polson

Vern Heisler
Environmental Engineer
Billings

Arvid Hiller
General Manager
Mountain Water Company
Missoula

Ed Hillman
Owner/Operator
ESD, Inc.
Livingston

Dehl Madison
Environmental Engineer
Fort Peck Tribes
Poplar

Lyle Quick
Board Member
NPRC
Circle

Sam Rodriguez
Regional Manager
DNRC Water Resources
Lewistown

Gerald Smith
Farmer/Rancher
Certified Water Operator
Galata

Ward Swanser
Attorney
Billings

Melissa Tuemmler
Cascade County Sanitarian
Ulm

Wayne Van Voast
Research Division Chief
MBMG
Buna

Communities that have begun wellhead protection projects:

Missoula
Sheridan
East Helena
Deer Lodge
Bridger
Belgrade
Plains
Hamilton
Livingston
Manhattan

Polson
Clyde Park
Choteau
Ramsey
Bonner Elementary School
Desmet Elementary School
Eureka, Midvale Water System
Augusta High School
Source Giant Springs Bottling Company
Giant Springs State Park

Communities interested in getting started on wellhead protection projects:

Sidney
Broadus
Huntley
Thompson Falls
Musselshell
Three Forks
Lolo Water District
Lewistown

Sage Creek Water District
Galata Water District
Oilmont Water District
Hungry Horse
Twin Bridges
Fromberg
Basin Water District

FACT SHEET
SB 153

Water and Wastewater Operator Certification Law

- Amends the definitions of water and wastewater systems to be consistent with the revisions described in the proposed amendments to the Public Water Supply Law (see below).
- Requires that individuals that operate non-transient noncommunity (NTNC) public water supplies (PWSs) be certified. NTNC PWSs are those that serve the same non-resident populations for at least 6 months of the year (schools, businesses). This requirement was included in the Safe Drinking Water Act reauthorization bills that passed the US House and US Senate last year. Currently, only water systems that serve resident populations and those that serve industries are required to have certified operators.

Public Water Supply Law

- Revises the definition of public water supply system to be consistent with the federal Environmental Protection Agency (EPA) definition. State definition is 10 or more service connections or 25 or more people for at least 60 days of the year. Federal definition is 15 or more service connections or 25 or more people for at least 60 days of the year. Approximately 20 very small public water supplies would no longer be regulated as public water supplies. The definition of public sewage system is proposed to be similarly changed.
- Minimum standards for cross-connection control programs for public systems. Currently, cross-connections of sources of contamination with a public water supply are illegal, but the department has not adopted minimum state standards for cross-connection control devices. Water suppliers would not be required to adopt cross-connection control ordinances, but could adopt the minimum state standards at their option.
- Voluntary certification of wellhead protection areas and for verification of wellhead protection area ordinances. The amendments are primarily intended to increased local authority for establishment of wellhead prdddottection areas for public water suppliers. The amendments require adherence to existing related state and local statutes, zoning and ordinances and require that local wellhdead protection ordinances comply with the Department of Health and Environmental Sciences (DHES) wellhead protection program approved by EPA. The amendments do not make wellhead protection mandatory.
- Clarifies the types of prohibited activities related to construction and operation of water supply and wastewater systems without prior DHES approval.

FACT SHEET
LC 392Water and Wastewater Operator Certification Law

- Amends the definitions of water and wastewater systems to conform to the revisions described in the proposed amendments to the Public Water Supply Law (see below).
- Requires that individuals that operate non-transient noncommunity (NTNC) public water supplies (PWSs) be certified. NTNC PWSs are those that serve the same non-resident populations for at least 6 months of the year (schools, businesses). This requirement was included in the Safe Drinking Water Act reauthorization bills that passed the US House and US Senate last year. Although reauthorization of the SDWA did not survive conference negotiations, it is likely that the final reauthorization of the SDWA will contain this requirement.

Public Water Supply Law

- Revises definition of public water supply system to more closely conform to the federal Environmental Protection Agency (EPA) definition. State definition is 10 or more service connections or 25 or more people for at least 60 days of the year. Federal definition is 15 or more service connections or 25 or more people for at least 60 days of the year. Approximately 20 very small public water supplies would no longer be classified as public water supplies. The definition of public sewage system is proposed to be similarly changed.
- Requires the Board of Health and Environmental Sciences (BHES) to adopt minimum standards for cross-connection control programs for public systems. Currently, cross-connections of sources of contamination with a public water supply are illegal, but no state standards for cross-connection control devices exist and water suppliers are not required to implement cross-connection control programs. The proposed amendment also requires the BHES to adopt timeframes for implementation of the standards that are based upon the size of the PWS.
- Requires the BHES to adopt requirements for certification of wellhead protection areas and for verification of wellhead protection area ordinances. The amendments are primarily intended to increased local authority for establishment of wellhead protection areas for public water suppliers. The amendments require adherence to existing related state and local statutes, zoning and ordinances and require that local wellhead protection ordinances comply with the Department of Health and Environmental Sciences (DHES) wellhead protection program approved by EPA. The amendments do not make wellhead protection mandatory.
- Clarifies the types of prohibited activities related to construction and operation of water supply and wastewater systems without prior DHES approval.

Proposed Amendments to Senate Bill No. 1995
Introduced (First Reading) Copy
January 23, 1995
Presented by Senator Ethel Harding

1. Title, page 1, lines 11 through 13
Strike: "ESTABLISHING" on line 11 through "REQUIREMENTS;" on line 13
Insert: "AUTHORIZING COUNTY GOVERNMENTS TO ESTABLISH WELLHEAD PROTECTION AREA ORDINANCES"
2. Statement of Intent, page 1, lines 18 and 19
Strike: "and wellhead protection. In regard to cross-connections, the"
Insert: "The"
3. Statement of Intent, page 1, line 28 through page 2, line 3
Strike: page 1, line 28, through page 2, line 3 in their entirety
4. Page 6, line 22
Following: ";"
Insert: "and"
5. Page 6, lines 23 and 24
Strike: subsection (1) in its entirety
Re-number: subsequent subsection
6. Page 7, lines 23 through 25
Strike: "The department" on line 23 through "of the" on line 25
Insert: "The"
7. Page 7, line 26
Following: "300h-7"
Insert: ", enables the department to administer a wellhead protection program that involves certification of local wellhead protection areas and review of wellhead protection area ordinances. In administering this program, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section."
8. Page 7, line 30
Strike: "requirements"
Insert: "criteria and thresholds"
9. Page 8, line 14
Following: "with"
Insert: "and may not duplicate"
10. Page 8, line 15
Following: "state"
Insert: ", federal,"
11. Page 8, lines 17 and 18
Strike: subsection (6) in its entirety

January 23, 1995 DATE 1-21-95BILL NO. SB 153

Testimony for Senate Bill 153

My testimony as a proponent for Senate Bill 153 will be limited to that part labeled New Section Section 6. This section represents the culmination of years of work by a great many people in creating Montana's Wellhead Protection Program. As one of the advisory committee members, I can assure this committee that by accepting this section into Montana law you will have joined us in creating a new concept in water protection. Montana's Wellhead program is unlike most any other in that it is based on local government, local control and a voluntary program. It follows a precedent set in Montana in the 1920's when the legislature allowed local governments to create Water Conservancy Districts because they felt local people knew their local constitions better than anyone else.

The local communities, who are even now working on their programs, that participate in this program have realized that a proactive approach to safe drinking water is just good business. Keeping a water supply clean is easier and cheaper than trying to clean up and treat a polluted supply. Most people in the water business realize that Wellhead Protection is really only an extension of zoning practices which we all recognize as a integral part of growth planning. Since this is a voluntary program, it assures local participation

-2-

in almost all aspects of its creation and implementation. The cost savings to a community who implement this program, whether it be in testing or treatment are considerable.

It is imperative that rural communities such as I live in have this ability to protect their source of water. Having been an operator of a rural water district for almost fifteen years, I can attest to the problems of rural versus city by way of ordinances and zoning. As we move into the 21st Century, we must empower counties as well as cities and towns with the tools to meet the challenges of a new century.

Gerald M. Smith
Box 83
Galata, MT 59444
406-432-2861

15

SEN

1-23-95



Natural Resources

DATE 1-23-95

SENATE COMMITTEE ON SB-137 SB-153

BILLS BEING HEARD TODAY: _____

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Arvid M. Hiller	Mountain Water Co	153	X	
Shirley M. Smith	Wellhead Cedar Community	153	X	
NICK V. CLOS	MT. RURAL WATER SYSTEM	153	X	
Daniel Keil	MT Rural Water System	153	X	
Jim Jensen	MEIC	153	X	
Carole Mackin	self	153	X	
Joe Meek	"	153	X	
Bethump	DHSC	153	X	
John Arriago	DHES	153	X	
John Fitzpatrick	Pyrusus Gold	153		Amend
Margen Cleary-Schwinder	W.I.F.E.			
Douglas Kardon		153		X
Willie Hall	LWV	153	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 27,
1995, at 1:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Vivian Brooke

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: SB 78, SB 128, SB 153, SB 204, SB 147

{Tape: 1; Side: A}

EXECUTIVE ACTION ON SB 128

CHAIRMAN LORENTS GROSFIELD reviewed **SENATOR GREG JERGESON'S** bill with the committee members. He said the bill would add a \$20 annual fee on improved 20 acre tracts to be deposited into a special revenue account. He said there already was a special revenue account that deals with fire protection, and the rules under that account allowed for recovery of administrative expenses. Therefore, he did not see any reason for another special revenue account.

CHAIR. GROSFIELD said Page 3, Line 14 of the bill says "must be levied and assessed upon the owner or lessee of each residential improved lot or parcel." He said the bill is referring to one annual charge of \$20.

Vote: PASSED AS AMENDED ON A ROLL CALL VOTE OF 6 - 2.

EXECUTIVE ACTION ON SB 153

Motion: SEN. TVEIT MOVED DO PASS ON SB 153.

Todd Everts, Environmental Quality Council, said **Mr. Crowley** and the Department of Health and Environmental Sciences came up with some consensus amendments to SB 153, as contained in **EXHIBIT 2**.

Motion: SEN. FOSTER MOVED THE AMENDMENTS AS CONTAINED IN **EXHIBIT 2**.

Discussion:

Jim Melstad, Subdivision Section Supervisor, Water Quality Division, Department of Health & Environmental Sciences explained the amendments that were incorporated into the Discussion Bill. **EXHIBIT 3**.

Mr. Melstad said the underlined portion under no. 7 of the Discussion Bill should be struck in its entirety.

CHAIR. GROSFIELD inquired, if by striking that language, would the program for cross-connection still be voluntary instead of mandatory. **Mr. Melstad** said no, that striking the language did not affect the voluntary nature of the program.

{Tape: 1; Side: B}

Mr. Melstad said number 9 of the Discussion Bill says, "FOR THE REVIEW AND APPROVAL OF PROGRAMS AS MAY VOLUNTARILY BE SUBMITTED BY PUBLIC WATER SUPPLY SYSTEM SUPPLIERS..."

CHAIR. GROSFIELD said that the amendments that have been explained in the discussion bill so far, have referred to a voluntary program verses a mandatory program.

Mr. Melstad said all of the amendments address a voluntary program.

SEN. MACK COLE said no. 14 of the discussion bill says, "enables the department to administer a wellhead protection program that involves certification of local wellhead protection areas and review of wellhead protection area ordinances. In administering this program, the department may perform only those functions provided for by the federal Safe Drinking Water Act and (this section)." He asked if that was changing the voluntary status.

Mr. Melstad said no, the department is proposing to allow applicants to voluntarily submit proposals for wellhead protection. No. 15 of the discussion bill also refers to the voluntary feature of the bill.

CHAIR. GROSFIELD said the amendments were developed by **Mr. Crowley** of the water company in Missoula.

SEN. FOSTER said during testimony, a witness mentioned nontransient and noncommunity water system. On Page 2, Lines 29-30 of the original bill it says, "nontransient noncommunity water system" means a public water supply system that is not a community water system and that regularly serves at least 25 of the same persons for at least 6 months a year. **SEN. FOSTER** asked **Mr. Melstad** if that was discussed.

Mr. Melstad replied they hadn't discussed that. He said his understanding of the amendment was to address the certification issue.

SEN. FOSTER asked if the amendment eliminated that section, what would happen. **Mr. Melstad** said if the language in the amendment eliminated that section, the operator would not have any definition in the law for certification.

SEN. FOSTER said he was not sure what the concern was about that language. **Mr. Melstad** asked **SEN. FOSTER** if the language was unclear or if it was the inclusion of the requirement to certify those operators. **SEN. FOSTER** replied that his concern was to whom the certification applied. **Mr. Melstad** said that it applies to public water systems, schools, and businesses that have 25 or more employees for at least 6 months of the year. Schools and businesses are the main concern.

SEN. FOSTER asked if that certification could apply just to schools and not businesses. **CHAIR. GROSFIELD** said if **SEN. FOSTER** wanted to make that motion, the committee members would take it under consideration. **SEN. CRISMORE** said for example, there is a saw mill that employs 50 people, would they be required to be certified. **Mr. Melstad** replied that is correct, under the current language.

SEN. CRISMORE said his concern was with the outlying businesses that have their own well system. **SEN. TVEIT** explained that the bill says "public water supply", which would eliminate outlying businesses.

CHAIR. GROSFIELD said Page 5, Lines 8-11 of the bill says, "Public water supply system means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for a period of at least 60 days in a calendar year."

SEN. FOSTER said if no. 5 of the discussion bill was eliminated and the term "nontransient community" was eliminated in no's 9, and 10, and "school" was inserted, the bill would be addressing schools.

Todd Everts, Environmental Quality Council, responded that the definition in the statute was not clear.

Mr. Melstad said the committee members might consider leaving the definition "nontransient" as it is, and adding, "a nontransient system serving schools" at the end of no's. 9-10, CHAIR.

GROSFIELD said the definition could read, "serving a school that is not a community water system." Mr. Melstad said that would cause a problem with the definition of "nontransient."

Motion/Vote: SEN. FOSTER MOVED TO STRIKE "nontransient and noncommunity", IN THE DEFINITIONS no's 5, 9 and 10, AND INSERTING "serving a school." MOTION CARRIED UNANIMOUSLY.

Vote: MOTION TO ADOPT AMENDMENTS AS CONTAINED IN EXHIBIT 2, CARRIED UNANIMOUSLY.

Motion/Vote: SEN. TVEIT MOVED DO PASS ON SB 153 AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 78

{Tape: 2; Side: A; Comments: tape is not clear}

Motion: SEN. WELDON MOVED DO PASS ON SB 78.

Motion: SEN. FOSTER MOVED TO AMEND SB 78 AS CONTAINED IN EXHIBIT 4.

Discussion: SEN. WELDON said the legislative audit found some significant problems. He said he would support narrowing the bonding requirement, but not completely eliminating it, which would defeat the purpose of the bill.

CHAIR. GROSFIELD said SB 78 is more than just a bonding issue. He stated that the audit said that the voluntary program had not been used and should be eliminated from the statute, or made mandatory. He said the biggest issue as a result of the audit, was management concerns. The situation at Pony was discussed at the hearing. The voluntary bonding that is in the statute goes back to the Pony situation. There was not a bond in place because the mill is grandfathered. He asked Steve Pilcher, Administrator, Water Quality Division, Department of Health and Environmental Sciences if the bonding provision in SB 78 had been in effect would it have affected the Pony situation. Mr. Pilcher

Amendments to Senate Bill No. 153
First Reading Copy

Requested by Senator Brooke
For the Committee on Natural Resources

Prepared by Todd Everts
January 26, 1995

1. Title, line 7.

Following: "BY RULE FOR"

Insert: "VOLUNTARY PROGRAMS FOR"

2. Title, lines 11 through 13

Strike: "ESTABLISHING" on line 11 through "REQUIREMENTS;" on line 13

Insert: "ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA ORDINANCES;"

3. Statement of Intent, page 1, line 18

Following: "regarding"

Strike: "cross-connections and wellhead protection"

Insert: "the voluntary submission of petitions for cross-connection control programs"

4. Statement of Intent, page 1, line 19

Strike: "In regard to cross-connections, the"

Insert: "The"

Following: "legislature"

Strike: "anticipates that"

Insert: "is aware that currently cross-connections of sources of contamination with a public water supply system are illegal, but there are no state standards for cross-connection control devices and no mechanism exists for public water suppliers to implement cross-connection control programs. The legislature grants the board the authority to set"

5. Statement of intent, page 1, line 20.

Strike: "will be developed"

6. Statement of Intent, page 1, line 22.

Following: "require"

Insert: "that any cross-connection control program voluntarily submitted for approval require the"

7. Statement of Intent, page 1, lines 24 through 26

Strike: "Deadlines" on line 24 through "systems." on line 26

8. Statement of Intent, page 1, line 28 through page 2, line 3
Strike: line 28 through page 2, line 3 in their entirety

9. Page 3, line 15.

Following: "system"

Insert: "that serves a school"

10. Page 3, line 19.

Following: "system"

Insert: "that serves a school"

11. Page 6, line 17.

Following: "requirements"

Insert: "for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems"

12. Page 6, lines 18 through 21.

Strike: ":" on line 18 through "(ii)" on line 21

13. Page 6, line 22

Following: ":"

Insert: "and"

14. Page 6, lines 23 and 24

Strike: subsection (l) in its entirety

Renumber: subsequent subsection

15. Page 7, lines 23 through 25

Following: "program" on line 23

Insert: "-- voluntary petitions"

Strike: "department" on line 23 through "the" on line 25

16. Page 7, line 26

Following: "300h-7"

Insert: ", enables the department to administer a wellhead protection program that involves certification of local wellhead protection areas and review of wellhead protection area ordinances. In administering this program, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section"

17. Page 7

Following: line 26

Insert: "(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a wellhead protection program for the system."

Renumber: subsequent subsections

18. Page 7, lines 28 and 29

Following: "system" on line 28

Strike: "or" through "located" on line 29

19. Page 7, line 30

Strike: "requirements"

Insert: "criteria and thresholds"

20. Page 8, line 5

Following: "shall"

Insert: "confer with the supplier of the public water supply system and shall then"

21. Page 8, line 10

Following: "subsection"

Strike: "(3)"

Insert: "(4)"

22. Page 8, line 14

Following: "with"

Insert: "and may not duplicate"

23. Page 8, line 15

Following: "other"

Insert: "federal,"

Following: "state"

Insert: ", "

24. Page 8, lines 17 and 18

Strike: subsection (6) in its entirety

1-27-95

DRAFT DISCUSSION BILL FOR THE SENATE
NATURAL RESOURCES COMMITTEE

SENATE BILL NO. 153

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO

① ESTABLISH REQUIREMENTS BY RULE FOR VOLUNTARY PROGRAMS FOR CROSS-CONNECTIONS; SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT

② ~~NONCOMMUNITY WATER SYSTEMS; ESTABLISHING A WELLHEAD PROTECTION PROGRAM; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD PROTECTION REQUIREMENTS ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION PROGRAM; AUTHORIZING LOCAL AND COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA ORDINANCES; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND 75-6-112, MCA."~~

STATEMENT OF INTENT

A statement of intent is provided for this bill because 75-6-103 directs the board of health and

③ environmental sciences to develop rules regarding ~~cross-connections and wellhead protection~~ the voluntary submission of petitions for cross-connection control programs.

④ ~~In regard to cross-connections, the~~ The legislature anticipates that is aware that currently cross-connection of sources of contamination with a public water supply system are illegal, but there are no state standards for cross connection control devices and no mechanism exists for public water suppliers to implement cross-connection control programs. The legislature grants the board the authority to set

⑤ minimum standards and requirements ~~will be developed~~ to ensure that a public water supply does not become contaminated when the system is connected to another nonpublic water supply or to a possible source of contamination. The standards and requirements must be consistent with other rules adopted

DRAFT DISCUSSION BILL

- (6) under Title 75, chapter 6, and may require that any cross-connection control program voluntarily submitted for approval require installation of specific types of cross-connection control devices in accordance with
- (7) industry standards. ~~Deadlines for compliance with these standards and requirements may be staggered in a manner that is consistent with federal safe drinking water guidelines, with larger systems having earlier deadlines than smaller systems.~~ The rules may include model standards and requirements for recommended implementation by public water supply system suppliers. In adopting rules for discontinuation of service for failure to comply with the requirements of an approved cross-connection program, the board shall conform the procedures for termination and reinstatement of service as closely as possible to the procedures used by the public service commission regarding termination and reinstatement of service by a public water system.
- (8) ~~In regard to wellhead protection, the legislature anticipates that the rules will provide detailed guidance to the department of health and environmental sciences and to local governing bodies regarding the development and certification of wellhead protection areas and the adoption of wellhead protection area ordinances. The rules should describe both the processes and substantive requirements for certification of wellhead protection areas and for review of proposed ordinances and verification of their compliance with Title 75, chapter 6.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-101, MCA, is amended to read:

"37-42-101. Purpose. It is hereby found and declared that the health and welfare of Montana citizens are jeopardized by persons not properly qualified to operate the water supply systems and that Montana's state waters are endangered by persons not properly qualified to operate the wastewater treatment plants. It is declared that the public policy of this state ~~is to control~~ protect the public health and safety by certifying these persons working in these occupations ~~in order to protect the public health and safety.~~"

Section 2. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Certificate" means a certificate of competency issued by the department, stating that the

operator holding the certificate has met the requirements for the specified operator classification of the certification program.

(2) "Community water system" means the term as defined in 75-6-102.

(3) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.

~~(3)~~(4) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

~~(4) "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.~~

(5) "Nontransient noncommunity water system" means a public water supply system that is not a community water system and that regularly serves at least 25 of the same persons for at least 6 months a year.

~~(5)~~(6) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

(7) "State waters" means the term as defined in 75-6-102.

~~(6)~~(8) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial wastes, or other wastes and which;

(b) discharges an effluent directly into this state's state waters; and which serves 10 or more families or serves an industry employing 10 or more persons

(c) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(7)~~(9) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply source to the premises of the consumer and which serves 10 or more families or supplies an industry employing 10 or more persons that is part of a community water system or a nontransient noncommunity water system.

~~(8)~~(10) "Water supply system" means the system of pipes, structures, and facilities through which the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and which that serves 10 or more families or serves an industry employing 10 or more persons is part of a community water system or a nontransient noncommunity water system.

~~{8}~~(11) "Water treatment plant" means that portion of the water supply system ~~which~~ that alters either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable for human use."

Section 3. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Certified wellhead protection area" means an area certified by the department that protects the surface and subsurface area surrounding a source of ground water for a public water supply system through which contaminants may move toward and reach the source of supply.

~~(3)~~ "Community water system" means ~~any~~ a public water supply system that serves at least ~~40~~ 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

~~{3}~~(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

(5) "Cross-connection" means a connection between a public water supply system and another water supply system, either public or private, or a wastewater or sewer line or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

~~{4}~~(6) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

~~{5}~~(7) "Drainage" means rainfall, surface, and subsoil water.

~~{6}~~(8) "Industrial waste" means any waste substance from the processes of business or industry or from the development of ~~any~~ a natural resource, together with any sewage that may be present.

(9) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.

~~{7}~~(10) "Maximum contaminant level" means the maximum permissible level of a contaminant in water ~~which~~ that is delivered to ~~any~~ a user of a public water supply system.

(11) "Montana wellhead protection program" means a program administered by the department to certify wellhead protection areas and review wellhead protection ordinances.

~~(8)~~(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(9)~~(13) "Person" means ~~any~~ an individual, corporation, association, partnership, municipality, other political subdivision of the state, or federal agency.

~~(10)~~(14) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of ~~any~~ state waters ~~which~~ that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of ~~any~~ a liquid, gaseous, solid, radioactive, or other substance into ~~any~~ state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife. A discharge ~~which~~ that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that ~~is designed to serve or serves~~ 10 15 or more families or 25 or more persons daily for a period of at least 60 days ~~out of the~~ in a calendar year.

~~(12)~~(16) "Public water supply system" means a system for the provision of water for human consumption from ~~any~~ a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly serves 10 or more families or at least 25 or more persons daily or has at least 10 service connections for a period of at least 60 days ~~out of the~~ in a calendar year.

~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at Title 40, CFR, ~~Parts~~ parts 141 and 142.

~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

~~(15)~~(19) "State waters" means ~~any~~ a body of water, irrigation system, or drainage system, either surface or underground.

~~(16)~~(20) "Transient noncommunity water system" means ~~any~~ a public water supply system that is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons

~~on a transient basis for at least 6 months a year."~~

Section 4. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of the board. (1) The board has general supervision over all state waters ~~which~~ that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used for a public water supply system;

(b) fees, as described in 75-6-108, for services rendered by the department;

(c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply ~~system~~ systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the issuance of licenses by the department to laboratories that conduct analysis of public water supply systems;

(f) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(g) the review of financial viability of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(h) the collection and analysis of samples of water used for drinking or domestic purposes;

(i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(j) administrative enforcement procedures and administrative penalties authorized under this part; and

(9) (k) standards and requirements FOR THE REVIEW AND APPROVAL OF PROGRAMS AS MAY VOLUNTARILY BE SUBMITTED BY PUBLIC WATER SUPPLY SYSTEM SUPPLIERS to prevent water supply contamination from a cross-connection, including:

(10) (i) establishment of timeframes for implementation of the standards and requirements based on the size of the public water supply system; and

(iii) provisions to exempt cross-connections from the standards and requirements if all connected

(11)

systems are department-approved public water supply systems; AND

(12)

(l) requirements for certification of wellhead protection areas and review of wellhead protection area ordinances pursuant to [section 6]; and~~(k)(m)(l)~~ any other requirement necessary for the protection of public health as described in this part.

(3) The board may issue orders necessary to fully implement the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or other waste into any state waters or on the banks of any state waters or into any an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;(3) build or operate any a railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any a watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) commence construction, alteration, ~~or extension~~ or operation of any a system of water supply, or water distribution, that is designed to be a public water supply system or a system of sewer, drainage, wastewater waste, or sewage disposal that is designed to be a public sewage system or industrial waste discharge system before ~~he~~ the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications;(5) operate or maintain any a public water supply system ~~which~~ that exceeds a maximum contaminant level established by the board unless ~~he~~ the person has been granted or has an application pending for a variance or exemption pursuant to this part;(6) violate any provision of this part or a rule adopted under this part; or

(7) violate any condition or requirement of an approval issued pursuant to this part."

NEW SECTION. Section 6. Montana wellhead protection program -- voluntary petitions.

(1) ~~The department shall implement a Montana wellhead protection program that is approved by the United States environmental protection agency and that meets requirements of the federal Safe Drinking Water Act, including 42 U.S.C. 300h-7, enables the department to administer a wellhead protection program that involves certification of local wellhead protection areas and review of wellhead protection area ordinances. In administering this program, the department may perform only those functions provided for by the federal safe drinking water act and [this section].~~

(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a wellhead protection program for the system.

~~(3)~~(3) The department may certify a wellhead protection area upon:

(a) receipt of a petition by a supplier for a public water supply system ~~or by request of the governing body of the county in which the system is located; and~~

(b) making a determination that the wellhead protection area meets ~~requirements~~ criteria and thresholds for certification established by the Montana wellhead protection program.

~~(3)~~(4) (a) The governing body of the county in which a wellhead protection area or areas exist may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the wellhead protection area or areas.

(b) Prior to adopting a wellhead protection area ordinance, the governing body shall confer with the supplier of the public water supply system and shall then submit the ordinance to the department for review and verification that the ordinance is consistent with the requirements of this chapter.

(c) A wellhead protection area ordinance must be adopted using the procedures described in 7-5-103 through 7-5-107.

~~(3)~~(5) (a) An ordinance adopted under subsection ~~(3)~~(4) is limited in applicability to the certified wellhead protection area or areas within the county.

(b) For a wellhead protection area that is located in two or more counties, the proposed wellhead protection area ordinance must be adopted by each county in order for the ordinance to be effective.

~~(5)~~(6) A wellhead protection area ordinance adopted under this section may not conflict with and may not duplicate any other state, federal, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8.

~~(6) The department shall maintain and, upon request, distribute a register of wellhead protection~~

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 1-27-95

BY NO 58-153

~~area ordinances adopted by local governing bodies.~~

NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 6].

-END-

1-27-95

[illegible]

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DATE 1-27-95

SENATE COMMITTEE ON NAT. RESOURCES

BILLS BEING HEARD TODAY: Exec Action

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
VIC ANDERSEN	DSL	SB-186	☒	☐
JOHN ARRIGO	DHES	7	☐	☐
STEVE PILCHER	DHES	SB 78 SB 153 SB 204	☒	☐
			☐	☐
			☐	☐
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
January 30, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 153 (first reading copy -- white), respectfully report that SB 153 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 7.

Following: "BY RULE FOR"

Insert: "VOLUNTARY PROGRAMS FOR"

2. Title, lines 11 through 13

Strike: "ESTABLISHING" on line 11 through "REQUIREMENTS;" on line 13

Insert: "ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA ORDINANCES;"

3. Statement of Intent, page 1, line 18

Following: "regarding"

Strike: "cross-connections and wellhead protection"

Insert: "the voluntary submission of petitions for cross-connection control programs"

4. Statement of Intent, page 1, line 19

Strike: "In regard to cross-connections, the"

Insert: "The"

Following: "legislature"

Strike: "anticipates that"

Insert: "is aware that currently cross-connections of sources of contamination with a public water supply system are illegal, but there are no state standards for cross-connection control devices and no mechanism exists for public water suppliers to implement cross-connection control programs. The legislature grants the board the authority to set"

5. Statement of intent, page 1, line 20.

Strike: "will be developed"

6. Statement of Intent, page 1, line 22.

Following: "require"

Insert: "that any cross-connection control program voluntarily submitted for approval require the"



Amd. Coord.
Sec. of Senate

251433SC.SRF

7. Statement of Intent, page 1, lines 24 through 26
Strike: "Deadlines" on line 24 through "systems." on line 26
8. Statement of Intent, page 1, line 28 through page 2, line 3
Strike: line 28 through page 2, line 3 in their entirety
9. Page 3, line 15.
Following: "system"
Insert: "that serves a school"
10. Page 3, line 19.
Following: "system"
Insert: "that serves a school"
11. Page 6, line 17.
Following: "requirements"
Insert: "for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems"
12. Page 6, lines 18 through 21.
Strike: ":" on line 18 through "(ii)" on line 21
13. Page 6, line 22
Following: ":"
Insert: "and"
14. Page 6, lines 23 and 24
Strike: subsection (1) in its entirety
Renummer: subsequent subsection
15. Page 7, lines 23 through 25
Following: "program" on line 23
Insert: "-- voluntary petitions"
Strike: "department" on line 23 through "the" on line 25
16. Page 7, line 26
Following: "300h-7"
Insert: ", enables the department to administer a wellhead protection program that involves certification of local wellhead protection areas and review of wellhead protection area ordinances. In administering this program, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section"
17. Page 7
Following: line 26
Insert: "(2) A supplier of a public water supply system may

voluntarily submit for department review and approval a petition to establish a wellhead protection program for the system."
Renumber: subsequent subsections

18. Page 7, lines 28 and 29
Following: "system" on line 28
Strike: "or" through "located" on line 29

19. Page 7, line 30
Strike: "requirements"
Insert: "criteria and thresholds"

20. Page 8, line 5
Following: "shall"
Insert: "confer with the supplier of the public water supply system and shall then"

21. Page 8, line 10
Following: "subsection"
Strike: "(3)"
Insert: "(4)"

22. Page 8, line 14
Following: "with"
Insert: "and may not duplicate"

23. Page 8, line 15
Following: "other"
Insert: "federal,"
Following: "state"
Insert: ", "

24. Page 8, lines 17 and 18
Strike: subsection (6) in its entirety
-END-

HOUSE NATURAL RESOURCES

Page 5

BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0153	BROOKE, VIVIAN	CONFORM TO SAFE DRINKING WATER ACT; CREATE WELLHEAD PROTECTION PROGRAM					
	2/06	3/03		CONCUR AS AMENDED	3/10	VOTE: 14-3	3/13
SB0186	BECK, TOM	DSL ABANDONED MINE RECLAMATION AUTHORITY					
	2/06	3/10		CONCUR	3/10	VOTE: 17-0	3/13
SB0200	LYNCH, J. D.	REVISE AND CLARIFY CECRA (COMPREHENSIVE ENVIRONMENTAL CLEANUP & RESPON. ACT)					
	2/15	3/06		CONCUR AS AMENDED	3/8	VOTE: 16-2	3/09
SB0203	GROSFIELD, LORENTS	WATER RIGHTS COMPACT -- BIGHORN CANYON AND LITTLE BIGHORN BATTLEFIELD					
	2/01	2/10		CONCUR	3/3	VOTE: 13-5	3/06
SB0204	GROSFIELD, LORENTS	PUBLIC WATER SUPPLY ACT ENFORCEMENT REVISIONS					
	2/06	3/03		CONCUR AS AMENDED	3/6	VOTE: 17-1	3/07
SB0225	TOEWS, DARYL	REQUIRE SALE OF SOME STATE LANDS IN DANIELS/VALLEY/GARFIELD/PHILLIPS COUNTY					
	2/20	3/08		TABLED ON	03/16	VOTE: 13-3	
SB0231	MESAROS, KEN	PRIVATE PROPERTY RIGHT CONSIDERATIONS UNDER MEPA					
	2/15	3/08		CONCUR	3/10	VOTE: 12-5	3/13
SB0252	TVEIT, LARRY	CLARIFY WATER QUALITY LAWS					
	2/27	3/10	Tabled 3/13 - 11-7	CONCUR AS AMENDED	3/15	VOTE: 12-6	3/16
SB0288	KEATING, TOM	REVISE THE MONTANA ENVIRONMENTAL POLICY ACT					
	2/20	3/08		CONCUR	3/10	VOTE: 9=8	3/13
SB0330	SWYSGOOD, CHUCK	WATER QUALITY NONDEGRADATION REVISIONS					
	2/27	3/13	Postponed 3/21	CONCUR AS AMENDED	3/22	VOTE: 12-6	3/23
SB0331	BECK, TOM	GENERALLY REVISE THE MONTANA WATER QUALITY ACT					
	2/27	3/13		CONCUR AS AMENDED	3/21	VOTE: 12-6	3/22
SB0346	FORRESTER, GARY	TEMPORARY WATER TREATMENT STANDARDS - NATURAL CONDITION					
	2/27	3/20		CONCUR AS AMENDED	3/21	VOTE: 18-0	3/22

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on March 3, 1995, at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Robert Story, Jr. (R)

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 153, SB 147, SB 78, SB 204
Executive Action: SB 203 Be Concurred In

Tape 1, Side A

HEARING ON SB 153Opening Statement by Sponsor:

SEN. VIVIAN BROOKE, Senate District 33, Missoula, said that SB 153 was requested by the Department of Health and Environmental Sciences (DHES). The bill is a proposal to conform certain definitions to the federal Safe Drinking Water Act and authorizes the Board of Health and Environmental Sciences to establish requirements by rule for voluntary programs for cross-connections and to specify the water supply, sewage and waste systems that require review and approval of plans and specifications by DHES. It modifies the laws to require certified operators for nontransient, noncommunity water systems. It also allows voluntary participation in a wellhead protection program and authorizes county governments to adopt wellhead protection area ordinances.

Proponents' Testimony:

Jim Melstad, DHES, Water Quality Division, distributed a fact sheet on the Water and Wastewater Operator Certification Law and the Public Water Supply Law and reviewed the contents with the committee. EXHIBIT 1 Mr. Melstad also distributed a sheet that showed the communities that have begun wellhead protection projects and communities that are interested in getting started. EXHIBIT 2 Mr. Melstad said a nontransient, noncommunity public water system is a system that serves 25 or more people at least six months of the year, which would typically be schools and businesses that have their own sources of water. The reason for requiring certification of the operators for those systems is because they service a vulnerable population consisting of children in schools and people working for the businesses. The Senate amended the bill to include schools only.

Dan Keil, Montana Rural Water System Association, supported SB 153.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SCOTT ORR asked Mr. Melstad to define the 20 wells that are not going to be regulated and the 200 wells that are going to be regulated. Mr. Melstad said the 20 to 25 public water systems that would no longer be regulated would be, for example, a small public system serving ten homes near Ennis. There are ten connections and less than 25 people using the system. REP. ORR asked if the small water systems are actually wells. Mr. Melstad said in most cases they are. REP. ORR asked Mr. Melstad what kinds of contamination could get into a well. Mr. Melstad said

there are many sources of contamination, such as leaking sewer pipes, septic systems and underground storage tanks.

REP. AUBYN CURTISS asked Mr. Melstad if \$30 and four hours of training was all that was required to certify an operator. Mr. Melstad said currently the requirements are a \$30 annual certification fee, a \$5 examination fee and four hours of continued education every year.

REP. KARL OHS asked Mr. Melstad what rural schools would be required to do under the legislation that they weren't required to do before. Mr. Melstad said the schools that have their own water system and serve 25 or more students will have to retain a certified operator or contract with a certified operator.

REP. CURTISS asked Mr. Melstad how many instances of significant contamination of a water supply have there been in the past several years. Mr. Melstad said the major problem in the state is the micro-biological quality of the water systems.

Tape 1, Side B

REP. CURTISS asked Mr. Melstad if there would be increased sampling or reporting requirements for the schools. Mr. Melstad said there would not be any increased sampling or reporting requirements.

REP. JON ELLINGSON asked Mr. Melstad to describe cross-connection devices and their purposes. Mr. Melstad said they run from something as simple as a copper-brass device that has two check valves that would be used on a water tap and costs about \$25, all the way up to a six or eight inch pipe that is two feet long that would be used to protect a public water supply system from a serious hazard and is very expensive.

REP. DOUG WAGNER asked John Arrigo, DHES, Ground Water Section, to describe the Wellhead Protection Program. Mr. Arrigo said the program has minimum criteria that a community would have to meet to have its wellhead program certified by the state. For example, the criteria ensures that Missoula's wellhead program is as safe as Livingston's wellhead program. A committee has to be formed to analyze where the ground water that is going into the public wells originates. An inventory of the sources of pollution in the area has to be taken and there has to be a management plan to deal with the sources of pollution. The management plan has to be implemented to address the future needs of the community and emergency situations.

REP. WAGNER asked Mr. Arrigo how much it would cost to implement the program. Mr. Arrigo said it would depend upon the complexity and size of the system. In Missoula, the Mountain Water Company contributed approximately \$70,000 to have some hydro-geologic models prepared to determine where the water that was going into its wells originated. The county and the local water quality

district is working to implement protective measures. An area, such as a trailer court, could implement a smaller wellhead protection program that would only involve drawing a 100 foot circle around the water supply well and ensuring that there aren't chemicals that could contaminate the well and that septic system owners don't dump paint waste down their drains.

Tape 2, Side A

REP. BILL TASH asked Mr. Arrigo how hospitals would be affected. Mr. Arrigo said currently it is illegal for a hospital or anyone else to drill a well and connect it to its system if the system is already connected to the public water supply system unless the well is approved in advance by the department.

Closing by Sponsor:

SEN. BROOKE urged the committee to support SB 153.

HEARING ON SB 147

Opening Statement by Sponsor:

SEN. JOHN HERTEL, Senate District 47, Moore, said SB 147 was requested by the Department of Natural Resources and Conservation (DNRC). The bill proposes the revision of the water resource administration of state water project laws. The first 11 sections of the bill establish a self-supporting lease management program for state-owned land associated with state water projects. The program will not be supported by tax dollars. The lease holders would support the administrative costs which would include such things as renewals, enforcing lease provisions, resolving access disputes and responding to lease complaints. There are cabin sites on some of the state-owned lands and the lessees have expressed concern about allowing the department to competitively bid project lands. The department agrees that the competitive bid process should not be used when leases are being renewed by the current lessees or when transferred to a party of the current lessee's choice.

As an example of the affect the bill would have on some Montana citizens, SEN. HERTEL described a situation in the Deadman's area which is a state-owned water project area and located between Harlowton and Ryegate. In that area there is an irrigation reservoir with approximately 46 cabin sites surrounding it. Some of the people have leased the sites for many years and have made many improvements. The cost of leasing the sites is approximately \$200 annually. The leases are for a ten-year period and lease fees cannot be increased more than two percent per year. The lessees cannot be forced out of their cabin sites by someone else because competitive bidding on the sites is not allowed.

FACT SHEET
SB 153

Water and Wastewater Operator Certification Law

- Amends the definitions of water and wastewater systems to be consistent with the revisions described in the proposed amendments to the Public Water Supply Law (see below).
- Requires that individuals that operate non-transient noncommunity (NTNC) public water supplies (PWSs) serving schools be certified. NTNC PWSs are those that serve the same non-resident populations for at least 6 months of the year (schools, businesses). This requirement was included in the Safe Drinking Water Act reauthorization bills that passed the US House and US Senate last year. Currently, only water systems that serve resident populations and those that serve industries are required to have certified operators.

Public Water Supply Law

- Revises the definition of public water supply system to be consistent with the federal Environmental Protection Agency (EPA) definition. State definition is 10 or more service connections or 25 or more people for at least 60 days of the year. Federal definition is 15 or more service connections or 25 or more people for at least 60 days of the year. Approximately 20 very small public water supplies would no longer be regulated as public water supplies. The definition of public sewage system is proposed to be similarly changed.
- Establishes voluntary minimum standards for cross-connection control programs for public systems. Currently, cross-connections of sources of contamination with a public water supply are illegal, but the department has not adopted minimum state standards for cross-connection control devices. Water suppliers would not be required to adopt cross-connection control ordinances, but could adopt the minimum state standards at their option.
- Voluntary certification of wellhead protection areas and for verification of wellhead protection area ordinances. The provisions are primarily intended to increase local authority for establishment of wellhead protection areas for public water suppliers. The amendments require adherence to existing related state and local statutes, zoning and ordinances and require that local wellhead protection ordinances comply with the Department of Health and Environmental Sciences (DHES) wellhead protection program approved by EPA. The amendments do not make wellhead protection mandatory.
- Clarifies the types of prohibited activities related to construction and operation of water supply and wastewater systems without prior DHES approval.

EXHIBIT 2

DATE 3-3-95

SB 153

Montana Wellhead Protection Program Water Quality Division

Department of Health and Environmental Sciences

Cogswell Building, Room B-201

Helena, MT 59620

Phone: (406) 444-5492

Fax: (406) 444-1374

January 19, 1995

Communities that have begun wellhead protection projects:

Missoula
Sheridan
East Helena
Deer Lodge
Bridger
Belgrade
Plains
Hamilton
Livingston
Manhattan

Polson
Clyde Park
Choteau
Ramsey
Bonner Elementary School
Desmet Elementary School
Eureka, Midvale Water System
Augusta High School
Source Giant Springs Bottling Company
Giant Springs State Park

Communities interested in getting started on wellhead protection projects:

Sidney
Broadus
Huntley
Thompson Falls
Musselshell
Three Forks
Lolo Water District
Lewistown

Sage Creek Water District
Galata Water District
Oilmont Water District
Hungry Horse
Twin Bridges
Fromberg
Basin Water District

Advisory Committee Members

Carolyn Colman
Mayor
West Yellowstone

Valerie Counts
Planning Director
Park County
Livingston

Diana Day
Business Woman
Harlowtown

Ethel Harding
State Senator
Polson

Vern Heisler
Environmental Engineer
Billings

Arvid Hiller
General Manager
Mountain Water Company
Missoula

Ed Hillman
Owner/Operator
ESD, Inc.
Livingston

Debi Madison
Environmental Engineer
Fort Peck Tribes
Poplar

Lyle Quick
Board Member
NPRC
Circle

Sam Rodriguez
Regional Manager
DNRC Water Resources
Lewistown

Gerald Smith
Farmer/Rancher
Certified Water Operator
Galata

Ward Swanser
Attorney
Billings

Melissa Tuemmler
Cascade County Sanitarian
Ulm

Wayne Van Voast
Research Division Chief
MBMG
Butte

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 3-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story			✓
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on March 10, 1995,
at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Jon Ellingson (D)
Rep. Scott Orr (R)
Rep. Emily Swanson (D)

Members Absent: Rep. Carley Tuss

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 252, SB 362, SB 186
Executive Action: SB 186 Be Concurred In
SB 153 Be Concurred In As Amended
SB 231 Be Concurred In
SB 288 Be Concurred In

Tape 1, Side A

John Fitzpatrick, Pegasus Gold Corporation, supported SB 186.

Jim Jensen, Montana Environmental Information Center, urged the committee to support SB 186.

Tammy Johnson, Citizens United for a Realistic Environment, supported SB 186.

Jeff Barber, Northern Plains Resource Council, supported SB 186.

Steve Kelly, Friends of the Wild Swan, supported SB 186.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. KARL OHS asked Mr. Clinch what would happen if the mines listed as abandoned became active. Mr. Clinch said the mines listed as abandoned have been abandoned for a long time and the department didn't perceive that there would be any active mining. Before any reclamation would be done on any of the mines, they would be checked out thoroughly to make sure no mining was being done.

REP. ROBERT STORY asked Mr. Clinch to explain the small miner's exemption. Mr. Clinch said under the Metal Mine Reclamation Act there is what is referred to as the small miner's exemption which means that if an individual keeps his disturbance under five acres and does not use a hazardous material such as cyanide, there is no bonding required for reclamation.

Closing by Sponsor:

SEN. BECK urged the committee to support SB 186.

EXECUTIVE ACTION ON SB 186

Motion/Vote: REP. DANIEL FUCHS MOVED SB 186 BE CONCURRED IN. Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON SB 153

Motion: REP. KARL OHS MOVED SB 153 BE CONCURRED IN.

Tape 4, Side A

Discussion:

REP. OHS distributed and explained an amendment to SB 153.
EXHIBIT 6

Motion/Vote: REP. OHS MOVED THE AMENDMENT TO SB 153. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. BILL TASH MOVED SB 153 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion carried 14 to 3. REP. DANIEL FUCHS, REP. DOUG WAGNER and REP. SCOTT ORR voted no.

EXECUTIVE ACTION ON SB 231

Motion/Vote: REP. PAUL SLITER MOVED SB 231 BE CONCURRED IN. Voice vote was taken. Motion carried 12 to 5. REP. HAL HARPER, REP. DAVID EWER, REP. BOB RANEY, REP. EMILY SWANSON and REP. JON ELLINGSON voted no.

EXECUTIVE ACTION ON SB 288

Motion: REP. PAUL SLITER MOVED SB 288 BE CONCURRED IN.

Discussion:

REP. HAL HARPER said SB 288 will aid large corporations and will make it more difficult for a citizen to force an agency to do an EIS.

REP. BOB RANEY said the Department of State Lands testified that citizens had brought eight suits against the department and the citizens had won five of them. SB 288 will make it so difficult the citizens won't be able to get involved.

Vote: Voice vote was taken. Motion carried 9 to 8. REP. BOB RANEY, REP. EMILY SWANSON, REP. JON ELLINGSON, REP. HAL HARPER, REP. DAVID EWER, REP. DANIEL FUCHS, REP. CLIFF TREXLER, and REP. PAUL SLITER voted no.

EXHIBIT 6
DATE 3-10-97
SB 153

Amendments to Senate Bill No. 153
Third Reading Copy

Requested by Rep. Ohs
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 13, 1995

1. Title, lines 10 and 11.

Strike: "MODIFYING" on line 10 through "SYSTEMS" on line 11

Insert: "CLARIFYING CERTAIN DEFINITIONS IN THE OPERATOR
CERTIFICATION LAWS"

2. Page 3, lines 7 through 9.

Strike: subsection 5 in its entirety

Renumber: subsequent subsections

3. Page 3, line 23.

Strike: "or" through "SCHOOL"

4. Page 3, lines 27 and 28.

Strike: "or" on line 27 through "SCHOOL" on line 28

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 3-10-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson			✓
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr			✓
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson			✓
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss		✓	
Rep. Doug Wagner	✓		



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 153 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Dick Knox
Dick Knox, Chair

Carried by: Rep. Ohs

And, that such amendments read:

1. Title, lines 10 and 11.

Strike: "MODIFYING" on line 10 through "SYSTEMS" on line 11

Insert: "CLARIFYING CERTAIN DEFINITIONS IN THE OPERATOR
CERTIFICATION LAWS"

2. Page 3, lines 7 through 9.

Strike: subsection 5 in its entirety

Renumber: subsequent subsections

3. Page 3, line 23.

Strike: "or" through "SCHOOL"

4. Page 3, lines 27 and 28.

Strike: "or" on line 27 through "SCHOOL" on line 28

-END-

Committee Vote:

Yes 14, No 3.

580855SC.Hbk

313 mn

SENATE BILL NO. 153

INTRODUCED BY BROOKE

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH REQUIREMENTS BY RULE FOR VOLUNTARY PROGRAMS FOR CROSS-CONNECTIONS; SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; ~~MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT NONCOMMUNITY WATER SYSTEMS~~ CLARIFYING CERTAIN DEFINITIONS IN THE OPERATOR CERTIFICATION LAWS; ~~ESTABLISHING A WELLHEAD PROTECTION PROGRAM~~; ~~AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD PROTECTION REQUIREMENTS~~; ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA ORDINANCES; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND 75-6-112, MCA."

STATEMENT OF INTENT

A statement of intent is provided for this bill because 75-6-103 directs the board of health and environmental sciences to develop rules regarding ~~cross-connections and wellhead protection~~ THE VOLUNTARY SUBMISSION OF PETITIONS FOR CROSS-CONNECTION CONTROL PROGRAMS.

~~In regard to cross-connections, the~~ THE legislature anticipates that IS AWARE THAT CURRENTLY CROSS-CONNECTIONS OF SOURCES OF CONTAMINATION WITH A PUBLIC WATER SUPPLY SYSTEM ARE ILLEGAL, BUT THERE ARE NO STATE STANDARDS FOR CROSS-CONNECTION CONTROL DEVICES AND NO MECHANISM EXISTS FOR PUBLIC WATER SUPPLIERS TO IMPLEMENT CROSS-CONNECTION CONTROL PROGRAMS. THE LEGISLATURE GRANTS THE BOARD THE AUTHORITY TO SET minimum standards and requirements ~~will be developed~~ to ensure that a public water supply does not become contaminated when the system is connected to another nonpublic water supply or to a possible source of contamination. The standards and requirements must be consistent with other rules adopted under Title

75, chapter 6, and may require THAT ANY CROSS-CONNECTION CONTROL PROGRAM VOLUNTARILY SUBMITTED FOR APPROVAL REQUIRE THE installation of specific types of cross-connection control devices in accordance with industry standards. ~~Deadlines for compliance with these standards and requirements may be staggered in a manner that is consistent with federal safe drinking water guidelines, with larger systems having earlier deadlines than smaller systems.~~ The rules may include model standards and requirements for recommended implementation by public water supply system suppliers.

~~In regard to wellhead protection, the legislature anticipates that the rules will provide detailed guidance to the department of health and environmental sciences and to local governing bodies regarding the development and certification of wellhead protection areas and the adoption of wellhead protection area ordinances. The rules should describe both the processes and substantive requirements for certification of wellhead protection areas and for review of proposed ordinances and verification of their compliance with Title 75, chapter 6.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-101, MCA, is amended to read:

"37-42-101. Purpose. It is ~~hereby found and~~ declared that the health and welfare of Montana citizens are jeopardized by persons not properly qualified to operate the water supply systems and that Montana's state waters are endangered by persons not properly qualified to operate the wastewater treatment plants. It is declared that the public policy of this state ~~is to control~~ protect the public health and safety by certifying ~~these~~ persons working in these occupations ~~in order to protect the public health and safety.~~"

Section 2. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.

(2) "Community water system" means the term as defined in 75-6-102.

(3) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.

~~(3)~~(4) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

~~(4) "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.~~

~~(5) "Nontransient noncommunity water system" means a public water supply system that is not a community water system and that regularly serves at least 25 of the same persons for at least 6 months a year.~~

~~(5)~~(6)(5) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

~~(7)~~(6) "State waters" means the term as defined in 75-6-102.

~~(6)~~(8)(7) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial wastes, or other wastes ~~and which~~;

(b) discharges an effluent directly into this state's state waters; and ~~which serves 10 or more families or serves an industry employing 10 or more persons~~

(c) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(7)~~(9)(8) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply source to the premises of the consumer and ~~which serves 10 or more families or supplies an industry employing 10 or more persons that is part of a community water system or a nontransient noncommunity water system~~ THAT SERVES A SCHOOL.

~~(8)~~(10)(9) "Water supply system" means the system of pipes, structures, and facilities through which the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and ~~which that serves 10 or more families or serves an industry employing 10 or more persons is part of a community water system or a nontransient noncommunity water system~~ THAT SERVES A SCHOOL.

~~(9)~~(11)(10) "Water treatment plant" means that portion of the water supply system ~~which that~~

1 alters either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable
2 for human use."

3
4 **Section 3.** Section 75-6-102, MCA, is amended to read:

5 **"75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
6 following definitions apply:

7 (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

8 (2) "Certified wellhead protection area" means an area certified by the department that protects
9 the surface and subsurface area surrounding a source of ground water for a public water supply system
10 through which contaminants may move toward and reach the source of supply.

11 (3) "Community water system" means ~~any~~ a public water supply system that serves at least 40
12 15 service connections used by year-round residents or that regularly serves at least 25 year-round
13 residents.

14 ~~(3)(4)~~ "Contamination" means impairment of the quality of state waters by sewage, industrial
15 wastes, or other wastes creating a hazard to human health.

16 (5) "Cross-connection" means a connection between a public water supply system and another
17 water supply system, either public or private, or a wastewater or sewer line or other potential source of
18 contamination so that a flow of water into or contamination of the public water supply system from the
19 other source of water or contamination is possible.

20 ~~(4)(6)~~ "Department" means the department of health and environmental sciences provided for in
21 Title 2, chapter 15, part 21.

22 ~~(5)(7)~~ "Drainage" means rainfall, surface, and subsoil water.

23 ~~(6)(8)~~ "Industrial waste" means any waste substance from the processes of business or industry
24 or from the development of ~~any~~ a natural resource, together with any sewage that may be present.

25 (9) "Industrial waste discharge system" means a system that discharges industrial waste into state
26 waters.

27 ~~(7)(10)~~ "Maximum contaminant level" means the maximum permissible level of a contaminant in
28 water ~~which~~ that is delivered to ~~any~~ a user of a public water supply system.

29 (11) "Montana wellhead protection program" means a program administered by the department to
30 certify wellhead protection areas and review wellhead protection ordinances.

~~(8)~~(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(9)~~(13) "Person" means ~~any~~ an individual, corporation, association, partnership, municipality, other political subdivision of the state, or federal agency.

~~(10)~~(14) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of ~~any~~ state waters ~~which~~ that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of ~~any~~ a liquid, gaseous, solid, radioactive, or other substance into ~~any~~ state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife. A discharge ~~which~~ that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that ~~is designed to serve or serves~~ 10 15 or more families or 25 or more persons daily for a period of at least 60 days ~~out of the~~ in a calendar year.

~~(12)~~(16) "Public water supply system" means a system for the provision of water for human consumption from ~~any~~ a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly serves 10 or more families or at least 25 or more persons daily or has at least 10 service connections for a period of at least 60 days ~~out of the~~ in a calendar year.

~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at ~~Title 40,~~ CFR, ~~Parts~~ parts 141 and 142.

~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

~~(15)~~(19) "State waters" means ~~any~~ a body of water, irrigation system, or drainage system, either surface or underground.

~~(16)~~(20) "Transient noncommunity water system" means ~~any~~ a public water supply system that

1 is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons
2 on a transient basis for at least 6 months a year."

3
4 **Section 4.** Section 75-6-103, MCA, is amended to read:

5 **"75-6-103. Duties of the board.** (1) The board has general supervision over all state waters ~~which~~
6 that are directly or indirectly being used by a person for a public water supply system or domestic purposes
7 or as a source of ice.

8 (2) The board shall adopt rules and standards concerning:

9 (a) maximum contaminant levels for waters that are or will be used for a public water supply
10 system;

11 (b) fees, as described in 75-6-108, for services rendered by the department;

12 (c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply
13 ~~system~~ systems;

14 (d) requiring public notice to all users of a public water supply system when a person has been
15 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

16 (e) the issuance of licenses by the department to laboratories that conduct analysis of public water
17 supply systems;

18 (f) the siting, construction, operation, and modification of a public water supply system or public
19 sewage system;

20 (g) the review of financial viability of a proposed public water supply system or public sewage
21 system, as necessary to ensure the capability of the system to meet the requirements of this part;

22 (h) the collection and analysis of samples of water used for drinking or domestic purposes;

23 (i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act
24 and this part;

25 (j) administrative enforcement procedures and administrative penalties authorized under this part;
26 and

27 (k) standards and requirements FOR THE REVIEW AND APPROVAL OF PROGRAMS THAT MAY
28 BE VOLUNTARILY SUBMITTED BY SUPPLIERS OF PUBLIC WATER SUPPLY SYSTEMS to prevent water
29 supply contamination from a cross-connection, including:

30 (i) establishment of timeframes for implementation of the standards and requirements based on the

~~size of the public water supply system; and~~

~~(ii) provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; AND~~

~~(i) requirements for certification of wellhead protection areas and review of wellhead protection area ordinances pursuant to [section 6]; and~~

~~(k)(m)(L)~~ any other requirement necessary for the protection of public health as described in this part.

(3) The board may issue orders necessary to fully implement the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or other waste into ~~any~~ state waters or on the banks of ~~any~~ state waters or into ~~any~~ an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate ~~any~~ a railroad, logging road, logging camp, or electric or manufacturing plant of any kind on ~~any~~ a watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) commence construction, alteration, ~~or~~ extension or operation of ~~any~~ a system of water supply, or water distribution, that is designed to be a public water supply system or a system of sewer, drainage, wastewater waste, or sewage disposal that is designed to be a public sewage system or industrial waste discharge system before ~~he~~ the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications;

(5) operate or maintain ~~any~~ a public water supply system ~~which~~ that exceeds a maximum contaminant level established by the board unless ~~he~~ the person has been granted or has an application

1 pending for a variance or exemption pursuant to this part;

2 (6) violate any provision of this part or a rule adopted under this part; or

3 (7) violate any condition or requirement of an approval issued pursuant to this part."

4
5 NEW SECTION. Section 6. Montana wellhead protection program -- VOLUNTARY PETITIONS. (1)

6 ~~The department shall implement a Montana wellhead protection program that is approved by the United~~
7 ~~States environmental protection agency and that meets requirements of the federal Safe Drinking Water~~
8 ~~Act, including 42 U.S.C. 300h-7, ENABLES THE DEPARTMENT TO ADMINISTER A WELLHEAD~~
9 ~~PROTECTION PROGRAM THAT INVOLVES CERTIFICATION OF LOCAL WELLHEAD PROTECTION AREAS~~
10 ~~AND REVIEW OF WELLHEAD PROTECTION AREA ORDINANCES. IN ADMINISTERING THIS PROGRAM,~~
11 ~~THE DEPARTMENT MAY PERFORM ONLY THOSE FUNCTIONS PROVIDED FOR BY THE FEDERAL SAFE~~
12 ~~DRINKING WATER ACT AND THIS SECTION.~~

13 (2) A SUPPLIER OF A PUBLIC WATER SUPPLY SYSTEM MAY VOLUNTARILY SUBMIT FOR
14 DEPARTMENT REVIEW AND APPROVAL A PETITION TO ESTABLISH A WELLHEAD PROTECTION
15 PROGRAM FOR THE SYSTEM.

16 ~~(2)(3)~~ The department may certify a wellhead protection area upon:

17 (a) receipt of a petition by a supplier for a public water supply system ~~or by request of the~~
18 ~~governing body of the county in which the system is located; and~~

19 (b) making a determination that the wellhead protection area meets ~~requirements~~ CRITERIA AND
20 THRESHOLDS for certification established by the Montana wellhead protection program.

21 ~~(3)(4)~~ (a) The governing body of the county in which a wellhead protection area or areas exist may
22 adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used
23 within the wellhead protection area or areas.

24 (b) Prior to adopting a wellhead protection area ordinance, the governing body shall CONFER WITH
25 THE SUPPLIER OF THE PUBLIC WATER SUPPLY SYSTEM AND SHALL THEN submit the ordinance to the
26 department for review and verification that the ordinance is consistent with the requirements of this
27 chapter.

28 (c) A wellhead protection area ordinance must be adopted using the procedures described in
29 7-5-103 through 7-5-107.

30 ~~(4)(5)~~ (a) An ordinance adopted under subsection ~~(3)~~ (4) is limited in applicability to the certified

wellhead protection area or areas within the county.

(b) For a wellhead protection area that is located in two or more counties, the proposed wellhead protection area ordinance must be adopted by each county in order for the ordinance to be effective.

~~(5)~~(6) A wellhead protection area ordinance adopted under this section may not conflict with AND MAY NOT DUPLICATE any other FEDERAL, state, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8.

~~(6) The department shall maintain and, upon request, distribute a register of wellhead protection area ordinances adopted by local governing bodies.~~

NEW SECTION. **Section 7. Codification instruction.** [Section 6] is intended to be codified as an integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 6].

-END-